

EXHIBIT “A”

2A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY,) CIVIL NO. CV01-00446
) SPK LEK
Plaintiff,) (Copyright)
)
vs.)
)
FLEMING COMPANIES, INC.,)
aka FLEMING FOODS, INC.,)
aka FLEMING, DOE)
INDIVIDUALS 1-50 AND DOE)
PARTNERSHIPS,)
CORPORATIONS AND OTHER)
ENTITIES 1-20 S 1-50,)
)
Defendants.)
-----)

DEPOSITION OF MARK DILLON

Taken on behalf of the Plaintiff pursuant to
Notice, on Monday, March 25, 2002, commencing at
9:00 a.m., at the Law Offices of Lynch Ichida
Thompson Kim & Hirota, 1132 Bishop Street, Suite
1405, Honolulu, Hawaii 96813.

1 APPEARANCES:

2 For Plaintiff Wayne Berry:

3 TIMOTHY J. HOGAN, ESQ.
4 Lynch Ichida Thompson Kim & Hirota
5 1132 Bishop Street, Suite 1405
6 Honolulu, Hawaii 96813
(808) 528-0100

7 For Defendant Fleming Companies, Inc., aka
8 Fleming Foods, Inc., aka Fleming:

9 LEX R. SMITH, ESQ.
10 Kobayashi Sugita & Goda
11 First Hawaiian Center
12 999 Bishop Street, Suite 2600
13 Honolulu, Hawaii 96813
14 (808) 539-8700

15 For Defendant Hawaiian Express Service,
16 Inc.:

17 ROY J. TJIOE, ESQ.
18 Goodsill Anderson Quinn & Stifel
19 Alii Place, Suite 1800
20 1099 Alakea Street
21 Honolulu, Hawaii 96813
22 (808) 547-5600

23 Also Present: Wayne Berry

24 REPORTED BY: Laura Savo, CSR No. 347
25 Notary Public, State of Hawaii

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1 finally, I realized the problem was between the
2 local service provider and the -- I'm sorry --
3 the local telephone company and the Internet
4 access provider; that they were different, two
5 different companies, and they weren't
6 communicating. And as a result, the circuit
7 never got up and functioning.

8 Q Did you ever, actually, physically look
9 at the computer system they had in La Mirada?

10 A Yeah, only Roger Perez's system. That
11 was the one -- That was the computer that would
12 be using the Internet access.

13 Q Okay. What do you understand regarding
14 Hawaiian Express Service, HEX, and its
15 communications or contacting, through computer
16 systems, Fleming in Kapolei? What, if anything,
17 can they do through their system, to your
18 knowledge, to contact Fleming in Kapolei?

19 A Well, they can dial -- Once connected
20 to the Internet, they can start PCAnywhere and
21 access one of two machines on the Logistics
22 Network in Kapolei to update the database with
23 data about case cube and weight received and
24 about appointments made with vendors for delivery
25 of product.